

IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF VIRGINIA
Richmond Division



DAVID MEYERS,

Petitioner,

v.

Civil Action No. 3:08cv581

MICHAEL B. MUKASEY, *et al.*,

Respondents.

MEMORANDUM OPINION

Petitioner, a federal pretrial detainee, submitted this petition under 28 U.S.C. § 2241.

Petitioner is currently awaiting trial on federal criminal charges before this Court. *United States v. Meyers*, No. 3:07cr85. By Order entered on September 24, 2008, the Court sent Petitioner back to the Federal Correctional Institute in Butner, North Carolina, to assess and treat Petitioner's mental condition pursuant to 18 U.S.C. § 4241(d)(2). In his current petition, Petitioner asserts that he is entitled to habeas relief because, *inter alia*, his current detention is a product of a conspiracy between the prosecutor, his defense counsel, and the Court.

"[W]here habeas claims raised by a pretrial detainee would be dispositive of the pending federal criminal charges, principles of federal court efficiency require that the petitioner exhaust those claims by presenting them at trial and then on direct appeal." *Moore v. United States*, 875 F. Supp. 620, 624 (D. Neb. 1994); *accord Kotmair v. United States*, 143 F. Supp. 2d 532, 534 (E.D.N.C. 2001); *cf. Fassler v. United States*, 858 F.2d 1016, 1018-19 (5th Cir. 1988) (holding defendants cannot use § 2241 to challenge pretrial detention orders that can be challenged under

18 U.S.C. § 3145).¹ Therefore, by Memorandum Order entered on December 23, 2008, the Court directed Petitioner to show cause why his claims and the present action should not be dismissed without prejudice because he had not fairly raised the claims at trial and on appeal in *United States v. Meyers*, No. 3:07cr85. Petitioner responded with further allegations of a conspiracy between the undersigned and other members of the judiciary. Petitioner has not identified any nonfrivolous basis for pursuing habeas relief in advance of his trial. See *Jones v. Perkins*, 245 U.S. 390, 391-92 (1918); *Alden v. Kellerman*, 224 F. App'x 545, 547 (7th Cir. 2007) (No. 06-4438), available at, 2007 WL 1514006 at *1. The petition for a writ of habeas corpus will be DENIED and the action will be DISMISSED WITHOUT PREJUDICE.

An appropriate Order shall issue.

Dated: 1-28-09
Richmond, Virginia

/s/
James R. Spencer
Chief United States District Judge

¹ By Memorandum Opinion and Order entered on September 12, 2008, the Court denied a prior 28 U.S.C. § 2241 petition by Petitioner challenging his pretrial incarceration and involuntary commitment order under 18 U.S.C. § 4241(d). *Meyers v. United States*, No. 3:08cv10, 2008 WL 4265167, at *1 (E.D. Va. Sept. 12, 2008).